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SIPDIS

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SUBJECT: KAZAKHSTAN: SUIT AGAINST ZHUMA TIMES BEGINS

Ref: 05 Almaty 4175

11. SUMMARY. The trial to close the opposition newspaper Zhuma Times began January 6 and was immediately put on hold pending a request to move the case to another jurisdiction. Lawyer Sergey Utkin asked that the case be transferred from Almaty's inter-district economic court to the Auezovskiy district court in Almaty. The Almaty city court will rule on the venue, but the deadline for that decision is unclear. The procurator has ten days to file a counter appeal. The lawsuit filed by a district procurator in Almaty follows months of harassment by the authorities during the presidential campaign and warnings issued by President Nazarbayev and Almaty's municipal procurator. Like other opposition newspapers in Kazakhstan, Zhuma Times has changed its name several times in the course of confrontations with authorities and has already registered a new name, so they are ready for what they believe will be an unfavorable ruling. END SUMMARY.

Trial On Hold Pending Decision on New Venue

12. (SBU) The trial to close the opposition newspaper Zhuma Times began January 6 and was immediately put on hold pending a ruling on the defendant's request to move the case to another jurisdiction. Lawyer Sergey Utkin asked that the case be moved from Almaty's inter-district economic court to the Auezovskiy district court in Almaty. Utkin argued that only commercial entities or people engaged in business could legally file claims in the inter-district economic court. Since the Auezovskiy district procurator, and not a business interest, had sued the newspaper, Utkin said the case had to be tried in another court. The Almaty city court will rule on the venue, but the deadline for that decision is unclear. The procurator has ten days to file a counter appeal.

Trial New Front in Zhuma Times' Battle with Authorities

13. (SBU) The trial to close Zhuma Times, which media observers say is supported financially by the opposition movement For a Just Kazakhstan, followed months of harassment throughout the presidential election campaign. Local authorities and prosecutors confiscated Zhuma Times print runs in Almaty on October 21 and November 3, saying the paper contained "false information defaming the honor and dignity of a presidential candidate in order to influence the election." In both cases the offending articles criticized the president or made vague allegations about the Giffen "Kazakhgate" bribery case. After the presidential elections, the December 8 issue was also seized, this time for information that allegedly insulted "the dignity and honor of the president," for articles critical of the conduct of elections, and vague insinuations about Kazakhgate that were published in almost every issue. Citing what he characterized as constant and crude violations of the law since the paper began publishing, the Auezovskiy district procurator in Almaty on December 20 filed suit in Almaty's inter-district economic court to have the newspaper cease publishing immediately until the trial to close the newspaper down was concluded. (Note: the Almaty inter-district economic court is the only court with the authority to seize property or demand immediate cessation of activities.)

Prosecutor and President Issued Public Warnings

14. (U) After the November 3 confiscation, Almaty's municipal procurator warned in an official statement that law enforcement would employ all measures allowed by law to prevent the spread of false information, including halting publication and prosecuting those responsible. President Nazarbayev issued his own warning at a December 5 press conference in Astana. When asked about his alleged involvement in corruption, the president said he would consider such allegations to be defamation. He added that he would take the accuser to court to be punished as

provided by Kazakhstan's law.

Zhuma Times Ready for Next Incarnation

15. (SBU) The Kazakh-language Zhuma Times has a long history of conflict with authorities, dating back to its first issue as DAT ("Let Me Speak") in April, 1998. By December of 1998 it was bankrupt after being fined 30 million tenge for allegedly defaming the official Kazakhstan-1 television station. SoldAT ("Same DAT") started publishing in July 1999 with funding from opposition leader Akezhan Kazhegeldin and the opposition Democratic Choice of Kazakhstan political party.

16. (SBU) In 2001 editor-in-chief Yermurat Bapi was sentenced to one year in prison on charges of defaming President Nazarbayev, but was amnestied before being imprisoned. After an inspection by tax police in 2003, Bapi was accused of concealing tax payments totaling 57 million tenge in what many say were trumped-up charges. He was sentenced to a year's probation, fined \$140, and ordered to cease publishing activities for five years. (He was identified on the Zhuma Times editor's page as "reader-in-chief.") In July 2003, the Almaty inter-district economic court ordered the liquidation of SoldAT, claiming it had never been officially registered. DATA Nedeli - Zhuma Times replaced SoldAT in November 2004. Anticipating a ruling to close down his newspaper, Bapi has told emboff that he has already registered another newspaper and will be ready to resume publishing when the decision on Zhuma Times is handed down.

Asquino

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